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1 - Investigators blame ammonium nitrate in massive West explosion

Dallas Morning News, 05/06/2013

<http://www.dallasnews.com/news/west-explosion/headlines/20130506-investigators-blame-ammonium-nitrate-in-massive-west-explosion.ece>

Ammonium nitrate stored at a fertilizer plant here was probably the trigger for a deadly and destructive explosion after fire broke out in the same building, authorities said Monday.

2 - BP Agrees to 28 Early Restoration Projects for Gulf States

Environmental News Service, 05/06/2013

<http://ens-newswire.com/2013/05/06/bp-agrees-to-28-early-restoration-projects-for-gulf-states/>

The British oil company BP has agreed to pay \$600 million to cover 28 early restoration projects in the Gulf Coast states damaged by the massive 2010 Deepwater Horizon spill.

3 - Reluctant to leave home

The Advocate, 05/06/2013

<http://theadvocate.com/home/5884362-125/reliant-to-leave-home>

Rhett and Donna Pipsair have spent the last 23 years making their home on Sauce Piquante Lane just the way they want it.

4 - Fracking Regulation Is States' Turf, 13 States Tell EPA

Tulsa World, 05/06/2013

http://www.tulsaworld.com/article.aspx/Fracking_regulation_is_states_turf_13_states_tell_EPA/20130507_49_E1_CUTLIN562199

A letter by Oklahoma Attorney General Scott Pruitt and signed by his counterparts in 12 other energy-producing states tells the EPA it should not allow threats of litigation by six Northeast states to provide a back-door entry for federal oversight of fracking.

5 - McCarthy Defends EPA Record, Provides Few Commitments Before Committee Vote

BNA Daily Environment Report, 05/07/2013

http://esweb.bna.com/eslw/1245/split_display.adp?fedfid=30977539&vname=denotallissues&id=a0d8g3y9g5&split=0

Gina McCarthy, the nominee for Environmental Protection Agency administrator, provided Senate Republicans with few specific commitments for the agency's regulatory agenda over the next few years, but she defended the work she has done as EPA air chief since 2009.

6 - States 'Coerced' to Add Greenhouse Gases To Implementation Plans, Texas Tells Court

BNA Daily Environment Report, 05/07/2013

A 2010 Environmental Protection Agency rule giving several states 21 days to revise their air pollution plans to include greenhouse gases or be subject to a federal plan is “coercive” and should be vacated, an attorney for Texas told a federal appellate court May 7 (Texas v. EPA, D.C. Cir., No. 10-1425, oral arguments 5/7/13 ; Utility Air Regulatory Group v. EPA, D.C. Cir., No. 11-1037, oral arguments 5/7/13).



Investigators blame ammonium nitrate in massive West explosion



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By BRANDON FORMBY

Staff Writer

bformby@dallasnews.com

Published: 06 May 2013 05:01 PM

Updated: 06 May 2013 11:08 PM

WEST — Ammonium nitrate stored at a fertilizer plant here was probably the trigger for a deadly and destructive explosion after fire broke out in the same building, authorities said Monday.

It was the first time investigators publicly narrowed the location of the April 17 fire and officially acknowledged the probable cause of the explosion. Experts who reviewed the explosion for *The Dallas Morning News* have said ammonium nitrate appeared to be the source of the blast.

"All indications are leading to that," Rachel Moreno, a spokeswoman for the State Fire Marshal's Office, told *The News*.

Fire officials are still trying to determine the cause and original location of the fire within the building, Moreno said.

Ammonium nitrate is used to make fertilizer and was stored in bins in a seed and fertilizer building at West Fertilizer Co., which for decades served farmers throughout Central Texas.

"We know [the fire] started in that building," but not in the bin that exploded, Moreno said.

The explosion killed 15 people, including 10 volunteer firefighters and two others who helped battle the blaze. The remains of those 12 were found at the plant.

Another 200 people in this small community about 80 miles south of Dallas were injured, and hundreds of homes were damaged or destroyed.

Investigators originally hoped to have a cause and origin of the fire by the end of this week, but Moreno said it appears that initial findings may not be ready until after May 17. They spent the day Monday combing the 93-foot-wide, 10-foot-deep crater the explosion left.

"It's just real tedious work," Moreno said.

Moreno declined to comment on the number of ammonium nitrate bins in the building or the exact amount of ammonium nitrate kept there. Company officials reported to the state in February that the facility had up to 270 tons of ammonium nitrate.

Moreno also said she couldn't comment on what material the building was made of. She also declined to comment on whether someone — authorized or not — was at the plant when the fire broke out.

She said investigators haven't determined that a criminal act precipitated the fire, but she also said that hasn't been ruled out.

She declined to comment on how secure the building or ammonium nitrate bins were. Company spokesman Daniel Keeney said the ammonium nitrate was kept locked.

Camera installed

According to McLennan County sheriff's records obtained by *The News* on Monday, someone tried to break into a West Fertilizer chemical storage area in 1995 but wasn't successful. The chemicals kept there weren't detailed in the incident report. During that same incident, someone broke into a fertilizer store room, but employees didn't believe anything was stolen. Records don't indicate which building the fertilizer store room was in.

The plant was the victim of a handful of burglaries and break-ins between 2008 and 2009, though records don't mention ammonium nitrate or the seed and fertilizer building during those incidents. Most of the break-ins involved the facility's administrative offices, which were in a different building than the ammonium nitrate. Those incidents included the theft of Oreos, \$10 in pennies, binoculars and a purple digital camera.

In December 2008, extra locks were added to the doors of the office building after someone repeatedly broke in and used the company's computers to look up

Internet pornography.

Company spokesman Daniel Keeney said late Monday that a surveillance system was installed in response to those break-ins. He said five cameras fed to a recording device also kept at the plant, which was essentially destroyed in the blast.

"So there's nothing those cameras could tell us about what happened or when or why," Keeney said.

Preparedness

A review of the federal and state emergency preparedness system shows little coordination or communication from Washington to West took place about the dangers of the plant's ammonium nitrate. At every stage, elements of the system missed opportunities to inspect, audit or even talk.

McLennan County's top emergency official said last week that the plant was never on a local emergency planning committee's radar.

That official, Frank Patterson, said he doesn't read all of the forms listing hazardous chemicals that his office receives. He also said state officials who receive the same forms never alerted him to the potential dangers of West Fertilizer's ammonium nitrate.

"There's no doubt about it, it's not a perfect system," Patterson said last week.

At a Texas House committee hearing last week, state agency chiefs explained at length how their organizations had met their legal requirements — and how they don't have a litany of enforcement or regulatory powers. Separately, federal agencies have said they also followed procedures.

The chairwoman of the U.S. Senate's environment and public works committee, Sen. Barbara Boxer, D-Calif., is giving the Environmental Protection Agency and the U.S. Chemical Safety Board, a nonregulatory agency that is investigating the explosion, until May 16 to provide information about whether they did all they could.

President Barack Obama is scheduled to speak Thursday in Austin about making America a magnet for jobs. White House spokesman Jay Carney said Monday that he didn't know whether the president also would discuss worker safety and the role of the federal government in industrial oversight.

Carney said Obama is still committed to making sure the federal government helps West residents.

"He made that clear when he visited for the memorial and spoke with Governor Perry and other state and local officials, as well as the families of the victims," Carney said.

Hotel aid

Hundreds of displaced West residents began receiving federal aid Monday to cover hotel stays through May 18 while they figure out where to live. Scores of homes were so damaged they have been deemed unlivable. The blast caused an estimated \$100 million in damage. The company was insured for up to only \$1 million.

Streets closest to the plant Monday night were quiet and lined with homes in a half-demolished state. Residents seem to have salvaged all they could from their homes and are settling into a routine of going to work during the day and planning their next move at night.

Neighbors on North Reagan Street gathered Monday night to discuss competing bids to demolish and rebuild their homes. For some, coming back again and again to see their home destroyed is too painful. Others are eager to rebuild.

David Woodard, head football coach at West High School, lost his home on North Reagan Street. If it were up to him, he said, he would bulldoze immediately and rebuild on the same land.

"I'm ready to start today," he said.

But Woodard said city officials still need to approve the demolitions and figure out where debris from the homes can be taken after they are bulldozed.

Staff writers Reese Dunklin, Todd J. Gillman, Randy Lee Loftis, Sarah Mervosh and Doug Swanson contributed to this report.

What's next: The investigation

Fire officials continue to investigate the cause of the fire that triggered the blast. Initial findings are expected between May 17 and 24.

Did you see something wrong in this story, or something missing? [Let us know.](#)



New Parkland hospital running \$16 million over budget, official tells Dallas County commissioners



Frantic 911 call leads to 3 missing women in Ohio



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Bizarre ear condition drives some, including ESPN's Sean McDonough, to risky surgery

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James Johanning 5 hours ago

Yes, we all know that AN was the culprit. But the REAL question is how did this known fact that Ammonium Nitrate can become a dangerous explosive become a secret?

Texas City blew up in 1947 -- cause Ammonium Nitrate fire in an ocean-going ship. All the firefighters in the Houston area had no chance to put it out. Once AN starts to burn it does not need oxygen to keep going. The transition from a sub-sonic flame front to an explosive super-sonic flame front is rather instantaneous.

Timothy McVeigh mixed 2 tons of Ammonium Nitrate with diesel fuel and blew up an OKC Federal building -- cause AN mixed with fuel oil makes a really safe and effective explosive. Mining companies world-wide use AN/fuel oil mixtures for blasting.

A French airport warehouse leveled everything within 1/4 mile in 2000 -- cause Ammonium Nitrate fire.

All KNOWN facts.

Did any of these facts make it through to any effective recommendations to retail fertilizer dealers anywhere in Texas? NO. Anywhere in the US? Doubtful. Anywhere in AUSTRALIA? Unbelievably, those guys know about this -- because of the pervasiveness of the mining industry.

Reply

1 ☐ ☐ 0



Pat Patterson 6 hours ago

Well duh! They wasted all this time to tell us what the obvious cause was when those of us with the knowledge of chemistry knew from the start.

Reply

0 ☐ ☐ 1



Chelsea Parten 8 hours ago

"Ammonium nitrate stored at a fertilizer plant here was probably the trigger for a deadly and destructive explosion after fire broke out in the same building"- that sounds like the fire was the trigger for the explosion. Not to mention Ammonium Nitrate is considered "non-flammable", and combustible only when heated in a confined pressurized container, or in the presence of powdered metals, strong reducing agents or strong acids. Sounds to me like the fire caused the storage containers to pressurize leading to the explosion. http://www.hummelcroton.com/msds/msdsp/amno3_p.html

Reply

[2 replies](#)

1 ☐ ☐ 0



Pat Patterson 6 hours ago

Exactly. I haven't yet heard how it was stored other than inside the two buildings. Was it confined in a container or in bags?

Reply

0 ☐ ☐ 1



Robert Dunbar 2 hours ago

Because the compound is highly soluble in water it is stored in buildings and sealed bins to protect it from rain and moisture. It melts at 337 degrees Fahrenheit and its flashpoint (boiling point) is 410 degrees Fahrenheit. Structural fires commonly reach temperatures of 800 degrees or more. A reasonably constructed storage bin within a reasonably constructed building could easily constrict the gases released from the compound at or above boiling point because of an adjacent fire and build pressures sufficient to promote explosion. So all the ingredients required for ammonium nitrate to explode were present.

"Ammonium nitrate has a critical relative humidity of 59.4%, above which it will absorb moisture from the atmosphere. Therefore, it is important to store ammonium nitrate in a tightly sealed container. Otherwise it can coalesce into a large, solid mass. Ammonium nitrate can absorb enough moisture to liquefy."

http://en.wikipedia.org/wiki/Ammonium_nitrate

"ammonium nitrate, (NH4NO3), a salt of ammonia and nitric acid, used widely in fertilizers and

explosives. The commercial grade contains about 33.5 percent nitrogen, all of which is in forms utilizable by plants; it is the most common nitrogenous component of artificial fertilizers. Ammonium nitrate also is employed to modify the detonation rate of other explosives, such as nitroglycerin in the so-called ammonia dynamites, or as an oxidizing agent in the ammonals, which are mixtures of ammonium nitrate and powdered aluminum.

Ammonium nitrate is a colourless, crystalline substance (melting point 169.6° C [337.3° F]). It is highly soluble in water; heating of the water solution decomposes the salt to nitrous oxide (laughing gas). Because solid ammonium nitrate can undergo explosive decomposition when heated in a confined space, government regulations have been imposed on its shipment and storage."

<http://www.britannica.com/EBchecked/topic/21045/ammonium-nitrate>

Reply

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Paula Schlinger 9 hours ago

It is easy to be cynical, but it is important to confirm what we all thought we knew - the cause of the explosion. Next step is to determine the cause of the fire. And to investigate why there were no plans in place to manage a fire, warn the community, evacuate the area as soon as a fire was discovered, etc. Also, why there were no regulations to prevent such a large accumulation of a dangerous material with no safeguards in place.

Reply

[2 replies](#)

2 0



Lee B 8 hours ago

Step 1. Don't build Residential Areas near a fertilizer plant.
Step 2. See Step 1.

Reply

[1 reply](#)

1 2



BGW 7 hours ago

Or don't build fertilizer plants near residential areas,

Reply

2 0



Jeffrey Kirk 17 hours ago

I could have saved them a lot of time in this investigation.

Reply

1 2



John Donovan 17 hours ago

A few experts, some crack detective work and next thing you know an explosion in a building containing only seed and fertilizer is narrowed down to the fertilizer.

Reply

1 1



Margie Gunderson 19 hours ago

What we need to do is make sure this doesn't happen again. We owe that much to the citizens of West, the emergency personnel who unselfishly gave their lives, and their loved ones.

Reply

4 1



Jim Simms 19 hours ago

We'll be.. Move on folks.. Let it and the families luckily enough to make it through and put it to sleep.. Thank You! Next Heading Please

Reply

0 3



Lee B 20 hours ago

I would blame the fire and not the ammonium nitrate...

Reply

1 2



BARRY 20 hours ago

I could have told you that for free ...DUH !

Reply

3 2

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BP Agrees to 28 Early Restoration Projects for Gulf States

Posted by [News Editor](#) in [Energy](#), [Land Use](#), [Latest News](#), [RSS](#) on May 6, 2013 12:31 pm / [no comments](#)



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WASHINGTON, DC, May 6, 2013 (ENS) – The British oil company BP has agreed to pay \$600 million to cover 28 early restoration projects in the Gulf Coast states damaged by the massive 2010 Deepwater Horizon spill.

In a preliminary agreement reached with the Deepwater Horizon Oil Spill Natural Resource Damage Assessment Trustees, the company will pay for the 28 projects in Texas, Louisiana, Mississippi, Alabama, and Florida. These projects will restore marshes, barrier islands, dunes and near shore marine environments.

This funding is part of a previous agreement with BP to provide \$1 billion for restoration prior to completion of the damage assessment process.

Early restoration is not intended to provide the full extent of restoration needed to satisfy the Trustees' claims against BP. The Trustees explain that the damage assessment and restoration process will continue "until the public is fully compensated for the natural resources and services that were lost as a result of the spill."

The 28 projects announced today are in addition to 10 initial early restoration projects begun in 2012 that are expected to cost about \$71 million and further barrier islands restoration projects in Louisiana.

"The Department of the Interior is pleased the Trustees are moving forward with planning and public review of this proposed suite of early restoration projects," said Rachel Jacobson, acting assistant secretary for Fish and Wildlife and Parks at the Department of the Interior.



Public meeting on the effects of the BP oil spill, 2011
(Photo courtesy NOAA)

“The Trustees have already helped jump-start Gulf restoration with the selection last year of 10 projects totaling \$71 million. Those projects were presented to the public as draft early restoration plans – a total of 13 meetings were held – before the projects were finalized. The Trustees will use the same process of working with communities on this new group of proposed projects.”

The Department of the Interior is backing proposals for \$15 million in restoration work to address injuries at Gulf Islands National Seashore in Florida, and \$72 million to address injuries at Breton National Wildlife Refuge.

The Gulf Island National Seashore proposal involves removal of tens of thousands of cubic yards of asphalt fragments and road base material that were scattered over 11 miles of the Fort Pickens and the Santa Rosa areas of Gulf Island National Seashore.

The estimated cost of this project is approximately \$11 million. Another \$4 million is proposed to cover the purchase of two ferry boats for use in a new ferry service to the Gulf Island National Seashore.

These projects are part of a \$58 million proposal made by the Trustees for early restoration projects in Florida.

Florida Governor Rick Scott said, “We’re committed to restoring the environment and economy that families have relied upon in the Gulf for generations.”

The next set of projects proposed for early restoration includes many of the proposals that citizens have been suggesting, such as oyster and scallop restoration, seagrass restoration, artificial reefs, living shorelines, recreational beach restoration, state park improvements, and a hatchery project which will help restore the fisheries in north Florida, said the governor.



Nesting Pelicans on Breton Island National Wildlife Refuge behind oil spill containment booms, May 2010
(Photo by [Greg Thompson](#) courtesy U.S. Fish & Wildlife Service)

In Louisiana, the Breton Island National Wildlife Refuge proposal includes \$72 million to restore the refuge and is part of a broader early restoration for four of the state’s barrier islands.

On April 30, BP agreed to fund \$340 million in Louisiana for the restoration of four barrier islands two fish stock research and enhancement centers.

The four barrier islands represent a roughly \$320 investment for the restoration of areas that Governor Jindal called the most-injured by the BP oil spill. The four components of this project include:

Breton Island Component, which is on the east bank of Plaquemines Parish in the Breton Sound. While the project configuration is being finalized, this \$72 million component will restore and protect beach, marsh, and dune in the Breton Wildlife Refuge. Established in 1904, Breton Island is the second oldest National Wildlife Refuge in the United States. It was among the first terrestrial habitats to be oiled during the BP spill because of its location along the outer coast.

Caillou Lake Headlands Component, which is also known as Whiskey Island, in Terrebonne Parish. This \$110 million component will restore beaches, dunes and back-barrier marshes.

Cheniere Ronquille Component, which is on the west bank of Plaquemines Parish in Barataria Bay. This \$35 million component will construct beaches, dunes and back-barrier marshes.

Shell Island Component, which is on the west bank of Plaquemines Parish in Barataria Bay. This \$101 million component will restore back-barrier marsh and dunes and beach on the east and west lobes.

This investment also is part of the \$1 billion that BP agreed to contribute for the early restoration of damaged natural resources.

This \$340 million represents the largest single component of restoration projects across the Gulf that BP has ever approved. Overall, Louisiana is receiving \$370 million in projects approved so far through the early restoration process.

Louisiana Governor Bobby Jindal emphasized that the disaster continues in his state. "It has been over three years since BP's Deepwater Horizon oil platform exploded, causing a spill estimated to reach five million barrels of oil, unprecedented rates of dispersants and natural gas to be released in the Gulf," the governor said. "We know from federal data that coastal Louisiana received approximately 92 percent of the heavily and moderately oiled shorelines in the entire Gulf of Mexico. An estimated 60 percent or more of injured, oiled and killed birds, mammals, fish and other wildlife found were off Louisiana's shore."



Oiled marshes on barrier islands in Barataria Bay, Louisiana (Photo courtesy NOAA)

"Despite the fact that those three years have passed, there are still an estimated 200 miles of shoreline in our state that remain oiled and Louisiana has 100 percent of the remaining heavily and moderately oiled shorelines," said the governor. "Three years later, this disaster continues in Louisiana."

"We have seen impacts on our coast and erosion rates have increased in some areas; oyster production has dropped; shrimp, tuna, and mahi mahi reproduction rates appear to be lower; and marine mammals are experiencing one of the worst death rates ever. That's why it's critical BP live up to their promise to make this right," said Jindal.

In total, the four projects will create thousands of acres of dune and marsh, and restore miles of Louisiana's barrier island beaches.

Governor Jindal said, "These barrier islands are our first line of defense against storm surge and salt water intrusion, and they provide key habitat for many fish and bird species. ... They have been eroding at an alarming rate and the oil spill exacerbated this loss. With these investments and other projects in the queue, this will nearly complete the restoration of the entire Barataria Bay barrier island chain as called for in the 2012 Master Plan. It is a major step forward."

Information about the 28 projects, as well as notification of public meeting times, dates and locations will be made public as soon as that information becomes available on the Trustees' website, www.gulfspillrestoration.noaa.gov.

Information on the progress of early restoration projects is periodically updated on the Trustees' interactive atlas, which allows for viewing, searching, and sorting of the projects.

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Reluctant to leave home



Advocate staff photo by ADAM LAU -- Rhett Pipsair stands on a pier extending through a swamp behind his house in the Bayou Corne community.

Sinkhole uproots bayou residents

By David J. Mitchell

River Parishes bureau

BAYOU CORNE — Rhett and Donna Pipsair have spent the last 23 years making their home on Sauce Piquante Lane just the way they want it.

The Pipsairs started out in a mobile home and eventually built a two-story house with a manicured lawn, a pond in the backyard and, behind it, a gently curving pier ending at a dock in an endless cypress forest.

While many of the neighbors in Bayou Corne have moved away in the nine months since the Assumption Parish sinkhole formed across La. 70 South from their house, the Pipsairs have remained, in spite of a parish evacuation order issued Aug. 3.

Rhett Pipsair, 50, the father of two adult sons, said he has not evacuated because

he has not been afraid of the sinkhole since it formed.

About a month ago, however, gas started bubbling up underneath a deck in one corner of his oblong pond, Pipsair said.

“This is making me think twice now that it’s in my own backyard,” Pipsair said. “I mean I’ve been building this place for 23 years. I can’t just up and leave, you know what I mean.”

Scientists studying the sinkhole say the gases in the bubbles are coming from several sources: Both decomposing organic matter and deep formations likely opened by the events that created the sinkhole, now 15.1 acres at the surface.

Scientists working for the Louisiana Office of Conservation said last week that Pipsair’s pond could be a signal that what they had feared last year — gases collecting underneath people’s houses — may be starting to occur.

The deeper formation of gas may be moving up and pushing shallow swamp gas up before the deeper gas appears in the shallowest layers under the Bayou Corne community.

The shallow gas released from decomposing matter is often called swamp gas, which is common in Louisiana, and is referred by scientists as being “biogenic.”

Known as “thermogenic,” the gas from deep underground, which is the focus of concern, has far older geologic origins.

Scientists have worried since last fall that this deep reservoir of gas could eventually move up closer to the surface, pass through the foundations of homes or accumulate under enclosed crawl spaces in homes, posing an invisible risk for explosions in the community of 350. Methane gas is odorless and colorless.

This fear has been one of the reasons the evacuation order has remained in place since August.

“The deep gas displacing the shallow swamp gas, appears to be occurring,” Gary Hecox, a CB&I hydrogeologist working on the sinkhole for the Louisiana Office of Conservation, told residents in a meeting last week.

A Texas Brine Co. salt dome cavern is suspected of having a sidewall failure that allowed millions of cubic yards of material to fill the hollow subterranean cavern and also unleashed oil and gas from deep underground.

Scientists have said they think about 45 million cubic feet of gas is now under a more than two-square mile area of the Mississippi River Alluvial Aquifer, which

ranges from 120 to 600 feet deep.

The thermogenic gas found in the bayou bubble sites were the first warnings last May that something was amiss underground and in vent wells installed since November to burn off the gas.

Hecox said two shallower test wells in the area have since seen this shift from swamp gas toward thermogenic gas. The wells, known as Geoprobes, are about 30 feet deep.

One of those wells is in the Bayou Corne community. Pipsair's pond may be midway in this process.

"We do have some pretty strong isotopic data now that says at least some of the methane in the community that's being detected has moved its way up from deep underground and is now coming up into the shallow part of the system," Hecox said.

But Texas Brine Co. officials have emphasized that testing under the foundations of houses in the community as well as the monitoring of the air inside them has not produced indications of the deep formation gas.

The volume of gas burning from 33 vent wells is going down while tests of the wells appear to show that the layer of gas in the aquifer is decreasing, Bruce Martin, Texas Brine vice president of operations, told residents Wednesday.

In addition, Texas Brine officials said their highly detailed seismic survey of the area shows only one possible source for the deep gas, known as the Big Hum, and it is played out.

"Overall, I feel very good that we're making progress on getting the gas out of the aquifer as evidence by what we're seeing on the individual wells," Martin said.

Sonny Cranch, Texas Brine spokesman, said Friday that the company planned to fly a helicopter with a special probe over the area Saturday to better show where the gas is located in the aquifer for future vent wells.

Don Marlin, the state Office of Conservation's expert hired to review Texas Brine's seismic data, has raised the possibility of at least eight sources for the gas based on less detailed seismic data from 2007.

This has raised fears that the gas in the aquifer could be continually fed from several sources.

Patrick Courreges, spokesman for the Department of Natural Resources, said

Friday the Blue Ribbon Commission, an expert panel appointed by DNR Secretary Stephen Chustz in late March, will have to work through the data and reach a conclusion. Hecox is one of 13 people on the commission.

Meanwhile, Pipsair said he will entertain a settlement offer from Texas Brine for his home but, speaking from his dock in the cypress forest Friday, he said it will be a hard decision to make.

“It’s real peaceful back here. You don’t hardly hear the traffic from the road. A lot of nature ... you name it, we got it back here pretty much,” Pipsair said. “It’s just a shame that we’re going to have to potentially move, I guess.”

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TULSA WORLD

Fracking regulation is states' turf, 13 states tell EPA

BY ROD WALTON World Staff Writer

Tuesday, May 07, 2013

5/07/13 at 8:07 AM

A letter by Oklahoma Attorney General Scott Pruitt and signed by his counterparts in 12 other energy-producing states tells the EPA it should not allow threats of litigation by six Northeast states to provide a back-door entry for federal oversight of fracking.

The U.S. Environmental Protection Agency has been studying the effects of hydraulic fracturing but so far has stayed out of an enforcement role.

The Pruitt letter, however, noted that New York, Connecticut, Massachusetts, Vermont, Delaware and Rhode Island have threatened to sue the agency and perhaps force it into a regional regulatory role that eventually could set a precedent.

"EPA has appropriately declined to regulate methane emissions from new and existing oil and gas facilities under the Clean Air Act," Pruitt wrote. "It is abundantly clear that EPA should not succumb to the pressure intended by the northeastern states."

In addition, Pruitt wrote, any negotiations should include states that want oversight of fracking and drilling to remain a state responsibility.

Fracking is a method for unlocking oil and natural gas from deep shale formations.

Pruitt's letter also was signed by attorneys general from Texas, Alabama, Arizona, Montana, Kansas, Nebraska, North Dakota, South Dakota, Ohio, Wyoming and West Virginia, as well as Indiana's environmental management commissioner.

The potential federal battle pits oil- and gas-producing states against states that are wary of the potential environmental impact of fracturing, which involves blasting a water, sand and chemical slurry into shale formations. Part of the gas-rich Marcellus Shale lies beneath New York, but that state has banned the practice since 2008.

Mike Terry, president of the Oklahoma Independent Petroleum Association, has argued that his state has effectively regulated the drilling practice for decades. He sees trouble with the EPA if the agency comes to agreements with the northeastern states and extends those rules nationwide.

"President Obama has not hidden the fact that he would like to eliminate the use of fossil fuels, and his administration has called for the repeal of long-standing tax provisions for oil and natural gas producers each year he has held office," Terry said. "When that effort failed due to a lack of support in Congress, efforts to slow oil and natural gas production were shifted to the nation's regulatory agencies."

Pruitt in a separate statement warned of "friendly lawsuits" that could bind all states to the outcome. Two years ago he wrote a letter to the nation's attorneys general accusing the EPA of using inaccurate methods to measure methane release from gas wells.

The EPA later declined to introduce new regulations for those emissions.

"This apparent practice by the EPA to engage in friendly lawsuits in order to circumvent the law is disturbing," Pruitt said. "The outcomes of these settlements have a very real effect on families, businesses, communities and state economies."

EPA spokeswoman Enesta Jones would not comment directly on the Pruitt letter nor a notice of intent to sue filed by the northeastern states.

The EPA is studying the effects of fracking on drinking water resources. In an update late last year, it noted that natural gas plays a key role in the nation's energy future but that fracturing also raises health concerns.

"The purpose of the study is to assess the potential impacts of hydraulic fracturing on drinking water resources, if any, and to identify the driving factors that may affect the severity and frequency of such impacts," an EPA summary stated. "Scientists are focusing primarily on hydraulic fracturing of shale formations to extract natural gas, with some study of other oil-and gas-producing formations, including tight sands, and coalbeds."

States square off

States supporting Pruitt's letter to the EPA: Oklahoma, Ohio, Texas, North Dakota, South Dakota, Arizona, Alabama, Indiana, Kansas, Montana, Nebraska, Wyoming and West Virginia.

States threatening to sue the EPA if it doesn't regulate hydraulic fracturing: Connecticut, New York, Rhode Island, Maryland, Delaware and Vermont.

Original Print Headline: States pressure EPA

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Associated Images:



A rig hand in Knox County, Ohio, monitors operations at a well site. Ohio is one of 13 states that signed a letter to the EPA opposing federal regulation of hydraulic fracturing. TY WRIGHT / Bloomberg

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EPA

McCarthy Defends EPA Record, Provides Few Commitments Before Committee Vote



By Jessica Coomes

Gina McCarthy, the nominee for Environmental Protection Agency administrator, provided Senate Republicans with few specific commitments for the agency's regulatory agenda over the next few years, but she defended the work she has done as EPA air chief since 2009.

Sen. David Vitter (R-La.), ranking member of the Senate Environment and Public Works Committee, released McCarthy's written answers to his questions May 6 in advance of the committee's scheduled vote May 9 on the nomination. He released McCarthy's answers in a 123-page document.

Vitter submitted the questions to McCarthy after her confirmation hearing April 11, during which she attempted to allay Republicans' concerns over EPA's transparency (71 DEN A-11, 4/12/13).

"With days left before her confirmation hearing, McCarthy has not shown any greater commitment to a higher standard of transparency, one that the Agency desperately needs—if we are to judge from her responses to the Committee Republicans' requests," Vitter said in a statement. "So far, we have generously allowed her the time to respond to our questions and five specific transparency requests. However, the unresponsive answers received are unacceptable, and I do hope the nominee provides more detailed and adequate information before this Thursday."

President Obama announced McCarthy's nomination March 4 to be EPA administrator (43 DEN A-15, 3/5/13).

No Work on New Power Plant Carbon Rule

In her answers, McCarthy said EPA is reviewing public comments it received on an April 2012 proposed rule that would set a new source performance standard of 1,000 pounds of carbon dioxide per megawatt-hour for all new fossil fuel-fired power plants. She said the agency is not developing a rule to regulate greenhouse gases from existing power plants.

"In the event that EPA does undertake action to address [greenhouse gas] emissions from existing power plants, the agency will ensure, as it always seeks to do, ample opportunity for the public and stakeholders to offer meaningful input on potential approaches," McCarthy wrote.

McCarthy also highlighted the benefits of rules she has overseen as EPA assistant administrator for air and radiation since 2009. For example, she highlighted mercury and air toxics standards (MATS) for power plants that EPA published in February 2012.

"Even after several decades of pollution control laws, until MATS there were no national limits on emissions of mercury and other air toxics from power plants," McCarthy wrote. "Power plants emit mercury, other metals, acid gases, and other air toxics—as well as particulate matter—all of which harm people's health."

Vitter questioned McCarthy about whether the rule would force the retirement of coal-fired power plants. McCarthy acknowledged that some coal plants will close because of environmental regulations, but she said other factors, including low natural gas prices, relatively high coal prices, and low regional electricity demand growth go into companies' decisions on whether to continue operating. She said "coal will remain one of our nation's most important sources of energy."

Tier 3 and Greenhouse Gases

EPA signed a proposed rule March 29 to set Tier 3 vehicle and gasoline standards. The rule would

lower the sulfur content in gasoline to 10 parts per million from 30 ppm.

In her written answers, McCarthy acknowledged that the proposed rule would potentially increase refinery carbon dioxide emissions slightly through the gasoline hydrotreating process. However, McCarthy said that increase would be offset by greenhouse gas reductions from improved operation of vehicle catalysts.

Regarding coal ash, McCarthy wrote there could be "strong support for a conclusion that regulation of [coal ash] as non-hazardous could be adequate."

In June 2010, EPA issued a proposed rule to regulate coal ash from power plants, offering two options. One option would place coal ash under the hazardous waste regulations of Subtitle C of the Resource Conservation and Recovery Act, and the second would regulate it under the nonhazardous waste regulations of Subtitle D.

In addition, McCarthy said that if she were confirmed, she would seek input from various sources.

"I have done my best to keep my door open to businesses, environmental advocates, local communities, the states, tribes, labor and the public at large, and I will continue to do so if I am confirmed as EPA Administrator," McCarthy wrote. "Interactions with stakeholders has provided information and insights that have led to the development of smarter, more cost-effective rules, and better designed and implemented policies and programs to build partnerships and enhance collaboration. If confirmed, I hope to continue to build on this record of outreach and engagement."

For More Information

McCarthy's written answers to Vitter's question related to her nomination are available at <http://1.usa.gov/16cxAI7>.

Contact us at <http://www.bna.com/contact/index.html> or call 1-800-372-1033

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LATEST DEVELOPMENTS

States 'Coerced' to Add Greenhouse Gases To Implementation Plans, Texas Tells Court

Posted: May 7, 2013, 1:57 PM EDT

By Andrew Childers

A 2010 Environmental Protection Agency rule giving several states 21 days to revise their air pollution plans to include greenhouse gases or be subject to a federal plan is "coercive" and should be vacated, an attorney for Texas told a federal appellate court May 7 (*Texas v. EPA*, D.C. Cir., No. 10-1425, oral arguments 5/7/13 ; *Utility Air Regulatory Group v. EPA*, D.C. Cir., No. 11-1037, oral arguments 5/7/13).

States were not given sufficient time to revise their state implementation plans to include greenhouse gases, and states such as Texas that refused to make the revisions were subject to federal implementation plans that saw EPA take over greenhouse gas permitting, David Rivkin, a partner at Baker & Hostetler LLP representing the state of Texas, told the U.S. Court of Appeals for the District of Columbia Circuit.

EPA's rule was the equivalent of "putting a gun to the head of the states" because industrial facilities faced a construction moratorium without the permits, he said.

The D.C. Circuit heard oral arguments in two separate lawsuits challenging EPA's requirement that states revise the prevention of significant deterioration portions of their state implementation plans to include greenhouse gases. In *Utility Air Regulatory Group v. EPA*, Texas, Wyoming, and power plants challenged a series of EPA rules requiring states to update their state implementation plans to include greenhouse gas permitting. The petitioners argued that EPA violated the Clean Air Act because it did not provide sufficient time for states to make the necessary revisions.

In *Texas v. EPA*, Texas challenged EPA's 2010 finding that the state's implementation plan, originally approved in 1992, was deficient because it lacked a provision to include newly regulated pollutants such as greenhouse gases.

The cases were heard by Judges Judith W. Rogers, David S. Tatel, and Brett M. Kavanaugh.

States Lacked Time for Revisions.

EPA did not give states sufficient time to make the necessary revisions to include greenhouse gas emissions as part of the prevention of significant deterioration permitting requirements, petitioners argued in *Utility Air Regulatory Group v. EPA*.

Prevention of significant deterioration requires new and modified industrial sources such as power plants and petroleum refineries to install updated pollution controls known as best available control technology when they expand or make modifications that increase emissions.

In a Dec. 13, 2010, "SIP call" rule, EPA required 13 states, including Texas and Wyoming, to revise their implementation plans to include greenhouse gases. The rule established deadlines for each of the states to make the needed revisions ranging from Dec. 22, 2010, to Dec. 1, 2011 (75 Fed. Reg. 77,698). Sixteen days later, EPA issued a rule finding that Arizona, Arkansas, Florida, Idaho, Kansas, Oregon, and Wyoming had failed to submit the required revisions to their implementation plans (75 Fed. Reg. 81,874). The agency then issued federal implementation plans Dec. 30, 2010, to cover greenhouse gas permitting in those states (75 Fed. Reg. 82,246).

That violated Section 110(a) of the Clean Air Act, which gives states three years to make the necessary state implementation plan revisions, the states and power industry said. EPA's rule also violated Section 110(i) of the Clean Air Act, which prevents the agency from arbitrarily requiring states to update their implementation plans, Rivkin said.

"You can't just modify SIPs in an ad hoc fashion," he said.

EPA argued the federal plans were necessary because Sections 165 and 167 of the Clean Air Act require the agency to apply prevention of significant deterioration permitting requirements to newly regulated pollutants. The federal implementation plans were necessary to bridge that "temporary gap in states' permitting authority" while they revised their implementation plans, Madeline Fleisher, the Justice Department attorney representing EPA, said.

Tatel Sees Ties to Greenhouse Gas Cases.

Tatel repeatedly asked the petitioners whether they have standing to challenge EPA's greenhouse gas SIP call given D.C. Circuit's decision in *Coalition for Responsible Regulation v. EPA*. In that series of lawsuits, several industry groups and some states, including Texas, had challenged EPA's various greenhouse gas regulations. A D.C. Circuit panel, which included Tatel and Rogers, unanimously upheld EPA's rules (*Coalition for Responsible Regulation v. EPA* D.C. Cir., No. 09-1322, 12/20/12).

As part of that decision, D.C. Circuit said states such as Texas lacked standing to challenge EPA's greenhouse gas tailoring rule, which limited greenhouse gas permitting to only the largest industrial sources, because the rule was intended to ease states' permitting burdens.

Tatel said he saw parallels between that decision and EPA's federal implementation plans, which ensured industrial sources would be able to obtain the necessary greenhouse gas permits while states made the required revisions to their state implementation plans.

Texas Challenges SIP Deficiency.

In *Texas v. EPA*, Texas challenged EPA's decision to retroactively grant only partial approval of the state's implementation plan because it lacked provisions to include newly regulated pollutants such as greenhouse gases.

EPA partially withdrew its approval of Texas's implementation plan using its authority under Section 110(k)(6), which allows the agency to make corrections to approved plans.

Mark DeLaquil, a partner at Baker & Hostetler LLP representing Texas, argued EPA withdrew its approval based on its changing policies and not any deficiency with the plan itself.

"An error is not changing your mind," he said.

Texas sued EPA after the agency issued an interim rule in 2010 removing the states's prevention of significant deterioration permitting authority for greenhouse gases followed by a final rule in May 2011 (75 Fed. Reg. 82,430; 76 Fed. Reg. 25,178). The partial approval means EPA is the greenhouse gas permitting authority for the state, while Texas continues to issue prevention of significant deterioration permits for other

pollutants, such as sulfur dioxide and nitrogen oxides.

Fleisher said EPA did not withdraw its approval of the Texas plan simply because the state refused to implement the greenhouse gas permitting requirements. She said "any pollutant that came down the line" could have triggered similar action by EPA.

"This is not EPA saying, 'we're changing our mind,'" she said. "This is EPA saying, 'We did it wrong the first time.'"

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